

(iii) Available Federal subsidies do not make the addition unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

(2) *Factors taken into account.* In making any determination under paragraph (d)(1)(i) of this section, the Secretary will—

(i) Make an estimate of the amount by which the addition will reduce oil and natural gas consumption, and

(ii) Determine whether the addition compares favorably, on the basis of the reduction in oil and natural gas consumption per dollar of cost to the Federal Government (including revenue loss), with other Federal programs in existence or being proposed.

(3) *Factors taken into account in making estimates.* In making any estimate under subparagraph (2)(i), the Secretary will take into account (among other factors)—

(i) The extent to which the use of any item will be increased as a result of the addition,

(ii) Whether sufficient capacity is available to increase production to meet any increase in demand for the item or associated fuels and materials caused by the addition,

(iii) The amount of oil and natural gas used directly or indirectly in the manufacture of the item and other items necessary for its use,

(iv) The estimated useful life of the item, and

(v) The extent additional use of the item leads, directly or indirectly, to the reduced use of oil or natural gas. Indirect uses of oil or natural gas include use of electricity derived from oil or natural gas.

(e) *Effective date of addition to approved lists.* In the case of additions to the approved list of energy-conserving components or renewable energy sources, the credit allowable by § 1.23-1 shall apply with respect to expenditures which are made on or after the date a Treasury decision amending the regulations pursuant to the application is published in the FEDERAL REGISTER. However, the Secretary may prescribe by regulations that expenditures for additions made on or after the date referred to in the preceding sentence and before the close of the taxable year in

which such date occurs shall be taken into account in the following taxable year. Additions to the list will be subject to the performance and quality standards (if any) provided under § 1.23-4 which are in effect at the time of the addition. Furthermore, any addition made to the approved list will be subject to reevaluation by the Secretary for the purpose of determining whether the item still meets the requisite criteria and standards for addition to the list. If it is determined by the Secretary that an item no longer meets the requisite criteria, the Secretary will amend the regulations to delete the item from the approved list. Removal of an item from the list will be prospective from the date a Treasury decision amending the regulations is published in the FEDERAL REGISTER.

(Secs. 44C and 7805 of the Internal Revenue Code of 1954 (92 Stat. 3175, 26 U.S.C. 44C; 68A Stat. 917, 26 U.S.C. 7805). The amendments to the Statement of Procedural Rules are issued under the authority contained in 5 U.S.C. 301 and 552)

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**§ 1.25-1T Credit for interest paid on certain home mortgages (Temporary).**

(a) *In general.* Section 25 permits States and political subdivisions to elect to issue mortgage credit certificates in lieu of qualified mortgage bonds. An individual who holds a qualified mortgage credit certificate (as defined in § 1.25-3T) is entitled to a credit against his Federal income taxes. The amount of the credit depends upon (1) the amount of mortgage interest paid or accrued during the year and (2) the applicable certificate credit rate. See § 1.25-2T. The amount of the deduction under section 163 for interest paid or accrued during any taxable year is reduced by the amount of the credit allowable under section 25 for such year. See § 1.163-6T. The holder of a qualified mortgage credit certificate may be entitled to additional withholding allowances. See section 3402 (m) and the regulations thereunder.

(b) *Definitions.* For purposes of §§ 1.25-2T through 1.25-8T and this section, the following definitions apply:

(1) *Mortgage*. The term “mortgage” includes deeds of trust, conditional sales contracts, pledges, agreements to hold title in escrow, and any other form of owner financing.

(2) *State*. (i) The term “State” includes a possession of the United States and the District of Columbia.

(ii) Mortgage credit certificates issued by or on behalf of any State or political subdivision (“governmental unit”) by constituted authorities empowered to issue such certificates are the certificates of such governmental unit.

(3) *Qualified home improvement loan*. The term “qualified home improvement loan” has the meaning given that term under section 103A (1)(6) and the regulations thereunder.

(4) *Qualified rehabilitation loan*. The term “qualified rehabilitation loan” has the meaning given that term under section 103A (1)(7)(A) and the regulations thereunder.

(5) *Single-family and owner-occupied residences*. The terms “single-family” and “owner-occupied” have the meaning given those terms under section 103A (1)(9) and the regulations thereunder.

(6) *Constitutional home rule city*. The term “constitutional home rule city” means, with respect to any calendar year, any political subdivision of a State which, under a State constitution which was adopted in 1970 and effective on July 1, 1971, had home rule powers on the 1st day of the calendar year.

(7) *Targeted area residence*. The term “targeted area residence” has the meaning given that term under section 103A (k) and the regulations thereunder.

(8) *Acquisition cost*. The term “acquisition cost” has the meaning given that term under section 103A (1)(5) and the regulations thereunder.

(9) *Average area purchase price*. The term “average area purchase price” has the meaning given that term under subparagraphs (2), (3), and (4) of section 103A (f) and the regulations thereunder. For purposes of this paragraph (b)(9), all determinations of average area purchase price shall be made with respect to residences as that term is defined in

section 103A and the regulations thereunder.

(10) *Total proceeds*. The “total proceeds” of an issue is the sum of the products determined by multiplying—

(i) The certified indebtedness amount of each mortgage credit certificate issued pursuant to such issue, by

(ii) The certificate credit rate specified in such certificate.

Each qualified mortgage credit certificate program shall be treated as a separate issue of mortgage credit certificates.

(11) *Residence*. The term “residence” includes stock held by a tenant-stockholder in a cooperative housing corporation (as those terms are defined in section 216(b) (1) and (2)). It does not include property such as an appliance, a piece of furniture, a radio, *etc.*, which, under applicable local law, is not a fixture. The term also includes any manufactured home which has a minimum of 400 square feet of living space and a minimum width in excess of 102 inches and which is of a kind customarily used at a fixed location. The preceding sentence shall not apply for purposes of determining the average area purchase price for single-family residences, nor shall it apply for purposes of determining the State ceiling amount. The term “residence” does not, however, include recreational vehicles, campers, and other similar vehicles.

(12) *Related person*. The term “related person” has the meaning given that term under section 103(b)(6)(C)(i) and § 1.103-10(e)(1).

(13) *Date of issue*. A mortgage credit certificate is considered issued on the date on which a closing agreement is signed with respect to the certified indebtedness amount.

(c) *Affidavits*. For purposes of §§ 1.25-1T through 1.25-8T, an affidavit filed in connection with the requirements of §§ 1.25-1T through 1.25-8T shall be made under penalties of perjury. Applicants for mortgage credit certificates who are required by a lender or the issuer to sign affidavits must be informed that any fraudulent statement will result in (1) the revocation of the individual's mortgage credit certificate, and (2) a \$10,000 penalty under section 6709. Other persons required by a lender or

an issuer to provide affidavits must receive similar notice. A person may not rely on an affidavit where that person knows or has reason to know that the information contained in the affidavit is false.

[T.D. 8023, 50 FR 19346, May 8, 1985]

**§ 1.25-2T Amount of credit (Temporary).**

(a) *In general.* Except as otherwise provided, the amount of the credit allowable for any taxable year to an individual who holds a qualified mortgage credit certificate is equal to the product of the certificate credit rate (as defined in paragraph (b)) and the amount of the interest paid or accrued by the taxpayer during the taxable year on the certified indebtedness amount (as defined in paragraph (c)).

(b) *Certificate credit rate*—(1) *In general.* For purposes of §§ 1.25-1T through 1.25-8T, the term “certificate credit rate” means the rate specified by the issuer on the mortgage credit certificate. The certificate credit rate shall not be less than 10 percent nor more than 50 percent.

(2) *Limitation in certain States.* (i) In the case of a State which—

(A) Has a State ceiling for the calendar year in which an election is made that exceeds 20 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located within the jurisdiction of such State, or

(B) Issued qualified mortgage bonds in an aggregate amount less than \$150 million for calendar year 1983.

the certificate credit rate for any mortgage credit certificate issued under such program shall not exceed 20 percent unless the issuing authority submits a plan to the Commissioner to ensure that the weighted average of the certificate credit rates in such mortgage credit certificate program does not exceed 20 percent and the Commissioner approves such plan. For purposes of determining the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located within the jurisdiction

of such State, an issuer may rely upon the amount published by the Treasury Department for such calendar years. An issuer may rely on a different amount from that safe-harbor limitation where the issuer has made a more accurate and comprehensive determination of that amount. The weighted average of the certificate credit rates in a mortgage credit certificate program is determined by dividing the sum of the products obtained by multiplying the certificate credit rate of each certificate by the certified indebtedness amount with respect to that certificate by the sum of the certified indebtedness amounts of the certificates issued. See section 103A(g) and the regulations thereunder for the definition of the term “State ceiling”.

(ii) The following example illustrates the application of this paragraph (b)(2):

*Example.* City Z issues four qualified mortgage credit certificates pursuant to its qualified mortgage credit certificate program. H receives a certificate with a certificate credit rate of 30 percent and a certified indebtedness amount of \$50,000. I receives a certificate with a certificate credit rate of 25 percent and a certified indebtedness amount of \$100,000. J and K each receive certificates with certificate credit rates of 10 percent; their certified indebtedness amounts are \$50,000 and \$100,000, respectively. The weighted average of the certificate credit rates is determined by dividing the sum of the products obtained by multiplying the certificate credit rate of each certificate by the certified indebtedness amount with respect to that certificate  $((.3 \times \$50,000) + (.25 \times \$100,000) + (.1 \times \$50,000) + (.1 \times \$100,000))$  by the sum of the certified indebtedness amounts of the certificates issued  $(\$50,000 + \$100,000 + \$50,000 + \$100,000)$ . Thus, the weighted average of the certificate credit rates is 18.33 percent  $(\$55,000/\$300,000)$ .

(c) *Certified indebtedness amount*—(1) *In general.* The term “certified indebtedness amount” means the amount of indebtedness which is—

(i) Incurred by the taxpayer—

(A) To acquire his principal residence, § 1.25-2T(c)(1)(i),

(B) As a qualified home improvement loan, or

(C) As a qualified rehabilitation loan, and

(ii) Specified in the mortgage credit certificate.